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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,360

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

08/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,360	Applicant(s) SINNEMA ET AL.	
	Examiner Clark F. Dexter	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,13,23-35,37 and 38 is/are pending in the application.
- 4a) Of the above claim(s) 23-35,37 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2010 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/18/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on June 18, 2010 has been entered.

Information Disclosure Statement

2. The information disclosure statement filed on June 18, 2010 has been received and the references listed thereon have been considered. It is noted that references that have already been cited/considered have been lined-through.

Drawings

3. The drawings were received on June 18, 2010. These drawings are acceptable.

Specification

4. The disclosure is objected to because of the following informalities:

In the replacement paragraph for page 4, lines 19-24 found in the subject amendment bridging pages 2-3:

line 6, "redges" is incorrect and should read --ridges--, and "or" should read --of--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 2nd paragraph

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 15, the recitation "an external annular cutting member" is vague as to whether it refers to the external cutting member previously set forth or to another such external member.

Claim Rejections - 35 USC § 102/103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 13 stands rejected under 35 U.S.C. 102(b) as anticipated by Geertsma et al., Pub. No. 2002/0083591 (hereafter Geertsma '591) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Geertsma '591 in view of Hasselquist, pn 1,416,199 (hereafter Hasselquist '199).

As a preliminary matter of clarification, it is noted that the prior art rejection of Geertsma '591 anticipating the claimed invention or, in the alternative, suggesting the claimed invention when combined with the teaching of Hasselquest '199 was provided in its entirety in the previous Office action. The heading and the first paragraph of this rejection have merely been rewritten to correspond to the standing prior art rejection.

Additionally, if it is argued that the claims were previously rejected under 35 USC 103 as lacking certain claim limitations and are now being rejected, at least in part, under 35 USC 102, it is respectfully submitted that such a prior art rejection is not considered to be a new grounds of rejection since it has been held that anticipation is the "epitome of obviousness," In re Kalm, 378 F.2d 959, 962 (CCPA 1967).

Geertsma '591 discloses a cutting unit of the rotary type, said cutting unit having an external annular cutting member (e.g., 4) and a skin contact surface (e.g., the surface of 9, 10) enclosed by the external contact member, wherein said enclosed skin contact surface is provided with shaving aid additive retaining means (e.g., the concentric ridge of 9 shown in Fig. 2 and/or features 10).

In the alternative, if it is argued that the ridges and grooves of Geertsma '591 do not meet the claimed limitation(s) directed to the shaving aid additive retaining means, the Examiner takes Official notice that such structure is old and well known in the art and provides the following benefits. Geertsma '591 teaches that the ridges 10 are provided on the cover to reduce frictional resistance between a user's skin and the cover during shaving. Geertsma '591 further teaches that such ridges may be provided in any location on the surface of the cover. In a similar manner, Hasselquist '199 discloses such friction-reducing structure in the form of concentric ridges and teaches that "the air has entrance or access between the face and faceplate, hence overcoming or eliminating any such undesirable tendency to suction or adhering action." Therefore, it would have been obvious to one having ordinary skill in the art to provide an alternate ridge structure such as that taught by Hasselquist '199 on the cover of the cutting units of Geertsma '591 to gain the well known benefits including those described above.

11. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by Geertsma et al., Pub. No. 2002/0083591 (hereafter Geertsma '591) **or**, in the alternative, under 35 U.S.C. 103(a) as obvious over Geertsma '591 in view of Hasselquist, pn 1,416,199 (hereafter Hasselquist '199) **or**, in the alternative, under 35 U.S.C. 103(a) as obvious over Geertsma '591 in view of Hasselquist, pn 1,416,199 and WIPO Publication WO 98/08660 (hereafter WO '660).

As a preliminary matter of clarification, it is noted that the prior art rejection of Geertsma '591 anticipating the claimed invention or, in the alternative, suggesting the claimed invention when combined with the teaching of Hasselquest '199 was provided

in its entirety in the previous Office action. The heading and the first paragraph of this rejection have merely been rewritten to correspond to the standing prior art rejection.

Additionally, if it is argued that the claims were previously rejected under 35 USC 103 as lacking certain claim limitations and are now being rejected, at least in part, under 35 USC 102, it is respectfully submitted that such a prior art rejection is not considered to be a new grounds of rejection since it has been held that anticipation is the "epitome of obviousness," *In re Kalm*, 378 F.2d 959, 962 (CCPA 1967).

Geertsma '591 discloses a shaving apparatus with every structural limitation of the claimed invention including:

a skin contact surface (e.g., the upper surfaces of holder 2 as viewed in Fig. 1) accommodating at least one cutting unit (e.g., 3) that comprises an external cutting member (e.g., 4), a matching internal cutting member (e.g., 6, 7), and a device (e.g., 9, 10) for providing a shaving aid additive to said skin contacting surface,

wherein said shaving apparatus further comprises shaving aid additive retaining means (e.g., 9, 10) provided on at least part of said skin contact surface, wherein the shaving aid additive is one of a liquid, a gel, a foam, a cream, a water-soluble hard material (i.e., the shaving aid retaining means of Geertsma '591 is fully capable of accommodating a shaving aid additive including one of those specifically claimed),

wherein the shaving aid additive retaining means comprises at least one groove (e.g., the grooves formed between features 10) that prevents the shaving aid additive from entering apertures in the external cutting member (e.g., the grooves of Geertsma

'591 channel will channel the shaving aid and thus prevent it from entering at least some of the apertures formed in the external cutting member),

wherein said at least one cutting unit is of the rotary type comprising an external annular cutting member, and

wherein said shaving aid additive retaining means is provided on a portion of the skin contact surface enclosed by the external annular cutting member of the at least one cutting unit;

[claim 3] wherein said shaving aid additive retaining means further comprises at least one ridge extending around a center of the skin contact surface enclosed by the annular cutting member of the at least one cutting unit (e.g., as shown in Fig. 2, Geertsma '591 discloses a plurality of such ridges 10 extending around a center of the claimed skin contact surface).

In the alternative, if it is argued that the ridges and grooves of Geertsma '591 do not meet the claimed limitation(s) directed to the shaving aid additive retaining means, the Examiner takes Official notice that such structure is old and well known in the art and provides the following benefits. Geertsma '591 teaches that the ridges 10 are provided on the cover to reduce frictional resistance between a user's skin and the cover during shaving. Geertsma '591 further teaches that such ridges may be provided in any location on the surface of the cover. In a similar manner, Hasselquist '199 discloses such friction-reducing structure in the form of concentric ridges and teaches that "the air has entrance or access between the face and faceplate, hence overcoming or eliminating any such undesirable tendency to suction or adhering action." Therefore,

it would have been obvious to one having ordinary skill in the art to provide an alternate ridge structure such as that taught by Hasselquist '199 on the cover of the cutting units of Geertsma '591 to gain the well known benefits including those described above.

Further in the alternative, if it is argued that the recitation "a device for providing a shaving aid additive to said skin contacting surface" cannot be considered to include the shaving aid retaining means since the shaving aid retaining means as now set forth appears that it may be intended to recite structure in addition to the device for providing a shaving aid additive to said skin contacting surface (i.e., the recitation "characterized by" has been replaced by "said shaving apparatus further comprises"), the Examiner takes Official notice that such devices are old and well known in the art and further that such is admitted prior art is described in the first two paragraphs of the specification of the present application (see page 1) wherein WO '660 is described as such prior art. Therefore, it would have been obvious to one having ordinary skill in the art to provide such a device on the shaving apparatus of Geertsma '591 for providing a shaving aid additive to gain the well known benefits including providing a lubricant or shaving aid additive during shaving to improve and/or enhance the quality of the shaving operation.

Response to Arguments

12. Applicant's arguments filed June 18, 2010 have been fully considered but they are not persuasive.

In the fourth paragraph on page 9 of the subject amendment, applicant argues:

Applicants would like to point out that Geertsma et al. neither discloses nor suggests providing a shaving aid additive. Rather, Geertsma et al. merely discloses a skin support surface 9 (within an external annular cutting member) and ridges formed on the skin support surface.

However, it is respectfully submitted that applicant's argument regarding the presence of shaving aid additive is moot because such is not positively set forth as part of the claimed invention. Rather, the claims positively set forth "a device for providing a shaving aid additive, ... wherein the shaving aid additive is one of a liquid, a gel, a foam, a cream, and a water-soluble hard material." That is, to meet the claim, the prior art must teach or suggest a device which is capable of providing a shaving aid additive of the types claimed. There is no requirement in the claim that a shaving aid additive must be present in the prior art device. Regarding Geertsma '591, one interpretation of claim 1 is that the device for providing a shaving aid additive is a broad interpretation of the shaving aid retaining means and thus the presence of features 9, 10 meets both recitations (i.e., the broader as well as the more specific recitations of such structure). In an alternative interpretation of claim 1 brought about by the current amendment, it may now be considered that the claim requires two separate structures: a device for providing shaving aid additive and a shaving aid retaining means. In this interpretation, Geertsma '591 lacks the device for providing shaving aid additive. However, as described in the above prior art rejection, such a device is known in the art, e.g., WO '660, and is admitted prior art as described on the first page of the specification of the present application.

In the second paragraph on page 10 of the subject amendment, applicant argues:

Applicants submit that the ridges 10 or Geertsma et al. (or the grooves between the ridges are intended to act as "shaving aid additive retaining means". Further, even if one were to assume that the grooves between the ridges 10 form shaving aid additive retaining means, these groove would direct any shaving aid additive toward the apertures in the external cutting member - it should be noted that these "grooves" are radial in nature and as such, would allow, if not encourage, any shaving aid additive toward the apertures.

The Examiner respectfully disagrees with applicant's analysis. First, it is respectfully submitted that the grooves of Geertsma '591 are fully capable of retaining shaving aid additive. For example, an appropriate amount of shaving aid additive applied to the surface 9 will include a portion that moves off of ridges 10 into the groove areas therebetween and to at least some extent will be retained therein. Second, because the grooves are aligned with only some of the apertures in the external cutting member, the channeling or movement of the shaving aid additive into the grooves will prevent the shaving aid additive from entering at least some of the apertures (e.g., those aligned with the ridges 10). There is no requirement in the claim(s) that the shaving aid additive is prevented from entering all of the apertures. Thus, to at least some extent, the grooves (and ridges) meet the claim limitation "shaving aid retaining means".

In the third paragraph on page 10 of the subject amendment, applicant argues:

In the subject invention, the at least one groove of the shaving aid additive retaining means is annular in configuration and tends to form "temporary storage

zones for shaving aid" thereby impeding any progression toward the apertures of the external annular cutting member.

However, it is respectfully submitted that such an annular configuration is not claimed and thus applicant's argument with respect to this matter must be considered moot.

Thus, for at least the reasons described above, it is respectfully submitted that the prior art rejections must be maintained.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
August 20, 2010